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ROGO 217 US (10309703)

REMARKS

Claims 10-16 replace previously pending claims 1-9.

"HCl" is not a non-standard abbreviation, especially when used in combination with 2-aminothiolane. Please note, for example, column 13, line 15 of U.S. Patent No. 5,063,109, relied upon by the Examiner. All applicants are doing is utilizing standard terminology. If the Examiner believes that HCl may have more than one meaning within the context it is used in, then information on these alternate meanings is requested.

EK-506 is not a trademark. This is the standard name of the antibiotic.

The Examiner originally cited U.S. Patent No. 5,063,109 to Bieniarz, as allegedly anticipating the claims. Applicants traverse.

As the specification explains, and figures 1 and 2 illustrate, when the first compound is added, and attached to the solid phase, a sulfhydryl group is introduced, which may or may not be protected. When the linker is added, it binds via the sulfhydryl group. Again, please note figures 1 and 2. As a result, a sulphur moiety must be present in the reaction product.

Such is not the case for Bieniarz. The invention, as disclosed at column 2, lines 40-65, does not contain a sulphur moiety resulting from the reaction of the first and second molecules. While a sulfhydryl group may be used to attach the ligand, this is not relevant to the chain which in fact supports the binding of the ligand. The chain, in Bieniarz, lacks such a moiety.

Undoubtedly, example 16 discusses the use of iminothiolane HCl, which contains a sulfhydryl group; however, the reaction with "compound 3," which must result in removal of the sulfhydryl group.

It is not seen how a reference which lacks a key component of what is claimed can be used as a primary reference, either for anticipation or obviousness consideration. As such, it is believed the Bieniarz is not relevant and all rejections based thereon under 35 U.S.C. § 102, as well as those under 35 U.S.C. § 103, where it is the primary reference,

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must fall. None of the references cited in combination with Bieniarz remedy the fact that Bieniarz lacks any teaching of a sulfhydryl group on the solid phase.

The Examiner has also rejected certain claims, i.e., claims 1, 5, 8, and 9 under 35 U.S.C. § 102(b) in view of Pope. Pope was also used in combination with other references to allegedly render claims 3 and 4 obvious. These rejections are traversed.

Pope discusses the mechanism of his reaction at columns 9 and 10, and refer the reader to figure 7. A review of this figure indicates, again, that when the solid phase is reacted with the first compound, the resulting product does not contain a sulfhydryl group. In order to introduce the sulfhydryl group, Pope must add DTT in excess, rather than directly react the resulting product with the linker.

In other words, Pope requires an additional step to incorporate sulfhydryl, as compared to what is claimed.

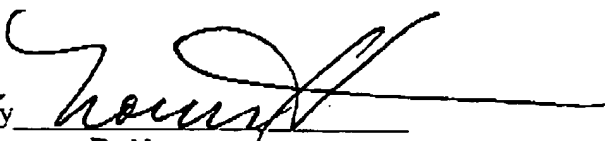
The figure speaks for itself. Undoubtedly, the resulting product contains a sulfhydryl group; however, the product is not being claimed, so the process steps are what must be considered. Compare figure 7 of Pope to figures 1 and 2 of the subject application.

Pope does not serve as an anticipatory reference. As with Bieniarz, since the secondary references do not address the absence of sulfhydryl in the chain, Pope cannot serve as a basis for the rejections advanced by the Examiner.

In view of the foregoing, withdrawal of the rejection, and allowance of claims 10-16 is believed proper and is urged.

The Commissioner is hereby authorized to deduct any fees or credit any overpayment to Deposit Account No. 500624.

Respectfully submitted,

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